

CIVIL SERVICE COMMISSION MINUTES
JULY 1, 2009

A special meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 of the County Administration Center, 1600 Pacific Highway, San Diego, California.

Present were:

A.Y. Casillas
Barry I. Newman
Francesca Krauel
W. Dale Bailey
William O'Connor

Absent was:

None

Comprising a quorum of the Commission

Support Staff Present:

Patt Zamary, Executive Officer
Karen F. Landers, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

Approved
Civil Service Commission

August 5, 2009

SAN DIEGO COUNTY CIVIL SERVICE COMMISSION
SPECIAL MEETING MINUTES
JULY 1, 2009

1:00 p.m. CLOSED SESSION: Discussion of Personnel Matters
and Pending Litigation

2:30 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway, San Diego, California

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
6, 7			

COMMENTS: Motion by Newman to approve all items not held for discussion; seconded by Bailey. Carried.

CLOSED SESSION AGENDA

County Administration Center, Room 400B
(Notice pursuant to Government Code Sec. 54954.2)
Members of the public may be present at this
location to hear the announcement of the
closed session agenda.

A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (GOV. CODE SEC. 54956.9) -- Written communications from US Equal Employment Opportunity Commission re Charge No. 488-2009-00458 (Donna Goyer); Letters dated May 27, 2009 and June 4, 2009 are available for public inspection pursuant to Government Code sections 54956.9, subdivision (3)(C) and 54957.5.

B. Commissioner Bailey: CONSIDERATION OF PUBLIC
EMPLOYEE DISCIPLINE (GOV. CODE SEC. 54957(b)) **Nancy
Bizzarri-Lusk**, former Social Worker I, appealing a
Final Order of Termination and Charges from the Health
and Human Services Agency.

C. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: Executive Officer

D. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (GOV. CODE SEC. 54956.9(a)). San Diego County Library v. San Diego County Civil Service Commission, Superior Court Case No. 37-2009-00085505-CU-WM-CTL.

OPEN SESSION AGENDA
County Administration Center, Room 358

MINUTES

1. Approval of the Minutes of the regular meeting of June 3, 2009.

Approved.

CONFIRMATION OF ASSIGNMENTS

2. Commissioner Bailey: **2009-05**, appealing an Order of Termination and Charges from the Sheriff's Department.

Confirmed.

3. Commissioner Krauel: Julie Buechler, Esq., on behalf of **2009-06**, appealing an Order of Removal and Charges from the Probation Department.

Confirmed.

4. Commissioner Newman: Julie Buechler, Esq., on behalf of **2009-07**, appealing an Order of Termination and Charges from the Sheriff's Department.

Confirmed.

5. Commissioner Casillas: **Ricardo Gutierrez**, Health and Human Services Administrator III, appealing a Final Order of Reduction in Compensation from the Health and Human Service Agency.

Confirmed.

DISCIPLINE

Appeals

6. **Karen Bradley**, former Protective Services Worker, appealing a Final Order of Removal and Charges from the Health and Human Services Agency.

RECOMMENDATION: Deny Request

Karen Bradley addressed the Commission explaining why she has waited over a year to follow-up on an appeal of termination by the Health and Human Services Agency in January 2008. She recounted that due to personal hardship,

she put her appeal on the back burner and was just getting around to following up. Patt Zamary, Executive Officer, stated that Commission staff has no record of an initial appeal having been filed by Ms. Bradley.

Velanda Joyner, Personnel Manager, HHSA, brought to the Commission's attention that Ms. Bradley has current litigation ongoing regarding this same matter.

**Motion by Bailey to accept staff recommendation;
seconded by Newman; carried. Request denied.**

Findings

7. Commissioner Bailey: **Nancy Bizzarri-Lusk**, former Social Worker I, appealing a Final Order of Termination and Charges from the Health and Human Services Agency. (Continued from the June 3, 2009 meeting.)

Ms. Bizzarri-Lusk explained to the Commission her circumstances regarding the issues surrounding her termination and charges from HHSA.

FINDINGS AND RECOMMENDATIONS:

The matter of the appeal of Nancy Bizzarri-Lusk, (Employee), from a written Final Order of Termination and Charges terminating her from the class and position of Social Worker I (Class No. 5235) in the Health and Human Services Agency, (Agency), was presented to the Civil Service Commission. The Commission appointed Commissioner W. Dale Bailey to hear the appeal and submit findings, conclusions, and recommendations to the Civil Service Commission. Thereafter, the matter was duly noticed and came on for hearing on April 17, 2009. This hearing was closed to the public. The causes of discipline were: you are guilty of dishonesty; you are guilty of willful misconduct; you are guilty of acts that are incompatible with or inimical to the public service; you are guilty of conduct unbecoming an employee of the County in violation of Civil Service Rule 7.2(m) as set forth in Causes I, II, III and IV as stated above.

Synopsis: Employee was a Social Worker in the Child Welfare Services division of the Health and Human Services Agency. She was charged with misusing her position for an advantage in accessing confidential client information. More specifically, the Agency charged that on September 26, 2008, she appeared at a Sheriff's station and falsely represented she was requesting certain records in her official Agency

capacity. In fact, the Agency alleged, she sought the information in connection with a personal matter. Employee denied the charges. She attributed the Agency's charges to mistaken assumptions made by Sheriff's personnel upon seeing her County/Agency ID badge around her neck. She testified that she wore the ID simply because she was on a break from work. However, testimony and evidence at the hearing supported the Agency's charges. Such evidence included Employee's written statements on a form she completed in her effort to obtain the records and oral statements she made to Sheriff's personnel. Employee's misconduct was severe. It involved dishonesty, misuse of authority, breaches of confidentiality and privacy, and potential criminal conduct. Furthermore, Employee has been previously disciplined for similar misconduct. Therefore, it is hereby recommended that the Agency's Order of Termination and Charges be affirmed.

Findings: Employee is guilty of Cause I, Dishonesty; Cause II, Willful Misconduct; Cause III, Acts which are Incompatible with or Inimical to the Public Service; and Cause IV, Conduct Unbecoming an Employee of the County. The nature of the proven charges are, in of themselves, severe enough to sustain a termination on a first occurrence. However in this case, they follow a prior discipline regarding the same type of misconduct and even involving a breach of the confidentiality of the same individual. Accordingly, the level of discipline selected by the Agency is appropriate.

Recommendations: Based on the findings and conclusions set forth above, I hereby recommend the following decision that the Final Order of Termination be affirmed; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

**Motion by Bailey to accept Findings and
Recommendations; seconded by Newman; carried.**

AYES:	CASILLAS, NEWMAN, BAILEY, O'CONNOR
NOES:	NONE
ABSTENTIONS:	KRAUEL
ABSENT:	NONE

OTHER MATTERS

Extension of Temporary Appointments

8. Sheriff's Department

- 6 Sheriff's Fingerprint Examiners (Stacy Houg, Nicholas Burman, Rebecca Montgomery, James Winstead, Catherine Guiant, Jennifer Sellen)

RECOMMENDATION: Ratify

Commissioner Newman commented on the Consent Agenda that this is a two-year project and at the end of two years, an entire new team must be brought in - which seems inefficient. (Commissioner Newman acknowledged that he understood that extensions are governed by the rules).

Denise Reiber, Sheriff's Employee Relations Manager, stated that this two-year grant is in the last six months of its term. The Sheriff is only able to get 6-month extensions, per the rule.

Item No. 8 ratified.

9. Public Input.

ADJOURNED: 3:10 p.m.

NEXT REGULAR MEETING OF THE CIVIL SERVICE COMMISSION:

AUGUST 5, 2009

ASSISTANCE FOR THE DISABLED:

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